

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2004-174-E ORDER NO. 2004-330
OCTOBER 1, 2004

IN RE: Application of Duke Power, a Division of)	ORDER APPROVING
Duke Energy Corporation, for Approval of an)	ELECTRIC SERVICE
Amended Electric Service Agreement)	AGREEMENT
between Duke Power and Owens Corning in)	
Anderson, SC.)	

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of Duke Power, a Division of Duke Energy Corporation, (“Duke”) for Commission approval of an amended electric service agreement with its customer Owens-Corning Fiberglass Corporation’s Anderson Plant (“Customer”).

Duke and its customer have reached a mutual agreement and have entered into, and filed with the Commission on June 22, 2004, an Amendment to their current Electric Service Agreement. The Amendment sets forth the conditions under which Duke will sell and deliver electric power to the Customer and the Customer shall purchase, receive, and pay for the same.

The Amended Agreement and Duke’s Application have been filed under seal. A joint request has been filed with this Application by Duke and the Customer to place these documents under seal with the Commission based upon: 1) the proprietary nature of

the Amended Agreement, 2) the commercial sensitivity of the Amended Agreement, and 3) the competitive nature of the Customer's business.

After careful review of the original Agreement, the proposed Amendment, and the Application, the Commission makes the following Findings and Conclusions:

FINDINGS OF FACT

1. We find that Duke is a regulated Electric Utility as defined in 26 S.C. Code Regs. 103-302 and subject to the jurisdiction of this Commission.

2. We find that Owens-Corning is a customer as defined in 26 S.C. Code Regs. 103-302.

3. We find that the Application in this matter was properly filed by Duke in accordance with the provisions of S.C. Code Ann. Section 58-27-840 (Supp. 2003) and 26 S.C. Code Regs. 103-303.

4. We find that the Amended Agreement provides a rate structure that is in the best interests of Duke and the Customer and, further, that the rate requested grants no unreasonable preference or advantage to the Customer. We additionally find that the rate schedule creates no unreasonable prejudice or disadvantage to the Customer.

5. We find that the proprietary nature of the Amended Agreement, the commercial sensitivity of the Amended Agreement, and the competitive nature of the Customer's business warrants the Application and Amended Agreement under seal with the Commission.

CONCLUSIONS OF LAW

1. We conclude that the Application in this matter may be, and is, approved by the Commission in accordance with the provisions of S.C. Code Ann. Section 58-27-840 (Supp. 2003) and 26 S.C. Code Regs. 103-303.

2. We conclude that the Amended Agreement and Application contain certain proprietary information which we conclude meet the definition of “trade secrets” contained in S. C. Code Ann. Section 30-4-40(a)(1) (Supp. 2003) and that, therefore, these documents are exempt from the South Carolina Freedom of Information Act and shall be kept under seal by the Commission.

IT IS THERFORE ORDERED, that the Amended Electrical Service Agreement between Duke and the Customer is hereby approved and shall be maintained under seal by this Commission.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/
Randy Mitchell, Chairman

ATTEST:

/s/
G. O’Neal Hamilton, Vice Chairman

(SEAL)